

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Nationstar Mortgage, LLC,)	
)	C/A No. 3:17-1743-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER AND OPINION
Annette I. Riley Clarke, also known as)	
Annette I. Riley; Marlon Clarke; Cach,)	
LLC; Bank of America, N.A.; and)	
Wells Fargo Bank, N.A.,)	
)	
Defendants.)	
_____)	

Plaintiff Nationstar Mortgage, LLC brought this foreclosure action in the Court of Common Pleas for Lexington County, South Carolina on or about November 7, 2014. On July 5, 2017, Defendant Annette I. Riley Clarke removed the action to this court on the grounds of federal question jurisdiction. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling.

The Magistrate Judge reviewed the allegations of the removal and determined that removal was improper because more than a year passed after Defendant was served with the foreclosure complaint. See 28 U.S.C. § 1446(b). The Magistrate Judge also determined that Defendant had failed to obtain consent from all Defendants. Id. In addition, the Magistrate Judge determined that the foreclosure complaint contained no federal question on its face and that Defendant is barred from removal under the “forum defendant rule.” See 28 U.S.C. §§ 1331, 1332. Accordingly, on August 9, 2017, the Magistrate Judge issued a Report and Recommendation in which recommended that the matter be remanded to state court for lack of subject matter jurisdiction. No party filed objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Magistrate Judge’s Report and Recommendation and incorporates it herein by reference. The case is remanded to the Court of Common Pleas for Lexington County, South Carolina, for lack of subject matter jurisdiction.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

August 29, 2017